

Appeal Decision

Site visit made on 2 July 2019

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2019

Appeal Ref: APP/D5120/W/18/3217859

18 Upland Road, Bexleyheath DA7 4NR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Victor Iruobe against the decision of the Council of the London Borough of Bexley.
 - The application Ref 17/01563/FUL, dated 28 June 2017, was refused by notice dated 16 July 2018.
 - The development proposed is change of use from storage (Use Class B8) to mixed-use church/community centre (Use Class D1) and offices (Use Class B1) and associated alterations.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development, in conjunction with other nearby uses, on parking and highway safety.

Reasons

3. The appeal property is a detached single storey currently unused building located in the southern part of Upland Road, which is a cul-de-sac and which includes a number of buildings in commercial, light industrial and religious or community uses. The remaining part of the road includes residential properties, while the rear of the appeal site is adjacent to residential properties on Church Road, which lies to the west.
4. A previous application also for use of No 18 as a church and offices was the subject of an unsuccessful appeal¹. In that case the Inspector found against the proposal on grounds of noise and disturbance, but found no harm with regard to parking and highway safety, which is the main issue in this appeal. However, since the appeal was determined there has been a material change in circumstances due to the use of the neighbouring building, No 17, as a place of worship. This results from the granting of a Lawful Development Certificate², which provides for an unrestricted Class D1 use of this neighbouring building.

¹ APP/D5120/W/17/3175280 dated 11 October 2017.

² Reference 17/01015/LDCE.

5. The Council's concern in this regard is the combined effects on parking and highway safety of the proposed use of the appeal building, together with use of No 17 and other buildings in this part of Upland Road. I note that as well as use for Sunday services, it is intended that the appeal building would be used for worship and community purposes on some weekday evenings and on Saturdays. However, I am unaware from the appeal submissions that the Council has concerns about the building's use on any day other than Sundays. As such, this is the principal consideration in this appeal.
6. As well as the existing and proposed uses at Nos 17 and 18, the other buildings near to the appeal site that result in parking demand on Sundays are the Kingdom Hall, which is also a place of worship, and the KBT Martial Arts Academy. The Design and Access Statement accompanying the application refers to worship and religious services taking place at the appeal building on Sundays from 8.30am-9.00am and 10.00am-2.00pm. This proposed timing of morning and early afternoon services coincides with use of No 17 and the Kingdom Hall for a number of services on Sunday mornings and use of the KBT Academy for classes for children and young people.
7. The appellant's existing church, which is to move to the appeal building, has a congregation of some 60 people. Reference is made by the appellant to potential capacity of the appeal building to accommodate 85 people, while the Council refers to a 100 person capacity. I have no basis to draw a firm conclusion on which is the correct figure, suffice to say that there is capacity for a larger attendance than is presently the case.
8. The existing size of the congregation at No 17 is referred to by the main parties as in the order of 100 to 120 people, although an interested party provides credible evidence that 141 people attended a Sunday service in January 2019. In terms of No 17's maximum capacity, the Council refers to 250 people although, again, I have no evidence such as a building layout or floor plans to substantiate the actual number. However, as with No 18 there appears to be scope for a greater level of attendance than presently. The Kingdom Hall accommodates some 400 people on a Sunday spread across four services during the day, while evidence from an interested party indicates that the KBT Academy runs seven classes on Sunday mornings, with 16 attendees in each class.
9. Given the permanent nature of the use sought here, and the potential for the congregation to increase, I have had regard to the fact that any parking associated with the proposed use could relate to future attendance at the appeal building by at least 85 people. Similarly, for the recently-established use of No 17, there is already evidence as noted above that the congregation has increased and that there is likely to be some potential for further growth. This potential maximum capacity should, therefore, properly inform any assessment of the long-term effects on parking and highway safety of the proposed use in combination with those already established.
10. In terms of on-site parking, the submitted plans show six spaces positioned in front of and to the side of the appeal building. The appellant contends that additional spaces could be provided adjacent to the side of the building and, indeed, such spaces were marked out at the time of the inspection. However, I note that for the purposes of assessing the effects of the proposed use the

appellant relies on six off-street spaces as applied for. I acknowledge the Council and interested parties' concerns that some of the spaces are constrained and, therefore, not useable and that three spaces would be a more appropriate basis to assess the available off-street parking. However, I have not seen any evidence to suggest that despite the site having some constraints, the six spaces could not be used for their intended purpose.

11. As well as this on-site parking, the appellant refers to an agreement with the owners of the nearby timber and building supplies business on Upland Road to use their yards for parking on Sundays. Evidence of this is provided in the form of a letter dated 27 January 2017 that refers to the availability of 8 to 10 parking spaces (although reference is made by the appellant to a larger number of spaces being available at the two locations). No 17 has five off-street parking spaces available in front of the building. It also has an agreement for off-street parking, in this case with a nearby primary school and evidence is provided that this is used on Sunday mornings.
12. The Kingdom Hall has its own dedicated car park that can accommodate a larger number of vehicles than Nos 17 and 18. An Elder at the Hall indicates that on some occasions on a Sunday the car park is full and, consequently, some members park on Upland Road. Finally, the KBT Academy has a limited number of off-street spaces in front of the building. However, with potentially over 100 children and young people attending classes on Sunday mornings it is reasonable to conclude that this use generates on-street vehicle movements and parking requirements, even if these are temporary for drop-off and pick-up.
13. Despite the letter from an owner of the nearby business there is no firm, binding guarantee that these off-street spaces will be available permanently for use in association with the appeal building on Sunday mornings. I note that this was also the finding of the Inspector in the earlier appeal already referred to³. Similarly, I have no evidence before me to conclude that the use of the primary school for off-street parking related to use of No 17 is a permanent arrangement that will endure in the long term. Therefore, given this uncertainty, I consider that it is reasonable and appropriate to discount these off-street parking arrangements in assessing the likely long-term effects of the proposed use of the appeal building in association with the effects of No 17 and the other uses already described.
14. Turning to on-street parking, as well as Upland Road itself the nearest roads referred to by the parties that might be used for parking in association with the proposed use of No 18 and the neighbouring buildings, are Belvedere Road and Church Road. Upland Road is constrained during working hours on weekdays due to the number of access points for businesses along the road. However, these constraints do not exist on Sundays and there are no other parking restrictions, except the access required to off-street parking including at No 17, the Kingdom Hall and KBT Academy. Belvedere Road and Church Road have restrictions for residents-only parking during weekdays, but no such restrictions at weekends, although there are a number of dropped kerbs along both roads that limit the amount of available parking.

³ Paragraph 12.

15. The appellant's most recent Transport Statement includes an assessment of the likely on-street parking demand generated by various levels of use of the appeal building and No 17. This concludes that with 85 attendees at the appeal building and 250 at No 17, and with no off-street parking at either the yards on Upland Road or the nearby primary school, on-street capacity would be exceeded. As already found, it is not fully clear what the maximum capacity of No 17's use is, but the appellant's assessment gives some indication of the potential effect on parking of both uses over the long-term and without the off-street parking in other locations that I have found cannot be guaranteed to be available.
16. A number of interested parties challenge whether the appellant's assumptions about the on-street parking demand from use of the appeal building is too low. The assessment shows that with the six on-site spaces at No 18, attendance by 85 people would result in a demand for five on-street spaces. I note in this regard that the site has a Public Transport Accessibility Level (PTAL) of four, which is good, with 11 bus routes and Bexleyheath railway station within specified walking distance for the PTAL calculation. Moreover, the appellant provides a Green Travel Plan that indicates that the church has two minibuses which would be used to transport attendees between Bexleyheath railway station and the site. It is reasonable to assume also that some attendees will travel to the site in single cars as a family or through car-sharing.
17. However, as the Council indicates, PTAL is measured during the weekday morning peak hour. At times when the most intensive use of the appeal building would take place, on Sundays, the number and frequency of public transport services will be greatly reduced. I note in this regard that the Inspector who determined the previous appeal found that public transport would still provide a realistic travel option⁴. While I do not disagree with this finding, it is not certain over the long term that, for example, all church attendees over and above the 60 that currently attend would wish to travel by public transport and be transported by minibus.
18. In addition, I note that the appellant's assessment of likely parking demand included in the Transport Assessment appears not to include the other uses that generate some on-street parking demand, at the Kingdom Hall and KBT Academy. This suggests that taking account of the four uses combined, the lack of on-street capacity is going to be greater than would be the case with just maximum use of the appeal building and No 17. However, rather than draw firm conclusions based solely on this apparently incomplete assessment of likely on-street demand, it is instructive to consider also the findings of the various parking surveys and observations undertaken by the appellant, the Council and interested parties.
19. The appellant's most recent parking surveys were undertaken on two Sundays in June 2018. These show that Sunday morning parking in Upland Road peaked at about 75% between 10.00am–10.30am when all uses were active. The appellant also provides photographs of parking on a Sunday in July, which show a reasonable degree of spare capacity on Upland Road and neighbouring roads.

⁴ Paragraph 13.

20. The Council undertook its own observations of on-street parking on a Sunday in February 2019. It has provided photographs of such parking between 9.00am and 10.30am at a time when there would be vehicle movements and parking demand associated with the proposed use of No 18. These show parking demand on Upland Road increasing during the course of the morning to a point where the majority of on-street space appears to be largely full by 10.30am. I have also had regard to the Council's observations that footways were blocked by vehicle parking and there were a high number of vehicle trips with many cars arriving and leaving after dropping off at the various venues; and cars needed to undertake numerous manoeuvres to turn around in the cul-de-sac. There was also a high level of pedestrians in the area, many being children.
21. Interested parties undertook their own observations of parking on two Sundays in January and February 2019 (the latter was a different date to the observation undertaken by the Council). The photographs taken on these dates show a considerable number of cars parked in the morning on both sides of Upland Road with little, if any, apparent space available. Furthermore, there is no apparent capacity on Belvedere Road or Church Road; and the observations of the extent of parking and vehicle trips and movements largely corroborate those of the Council.
22. Given that these photographs and observations by the Council and interested parties were undertaken some six to seven months after the appellant's, I find them more compelling and credible evidence of the current parking situation that has a bearing on the appeal proposal. In particular, these findings reflect a longer period of use of No 17 for religious worship, with the increase in the number of attendees noted in paragraph 8 above likely to have a bearing on parking demand. As I have also found that there could be greater potential capacity for use of No 17 by more people, then this could lead to greater on-street demand. Moreover, were the primary school no longer available - a factor which I have already concluded must be taken into account - then this would further exacerbate the demand.
23. It is clear, therefore, from the evidence available in this case that the appellant's assessment does not fully reflect all the uses that take place on a Sunday morning and which generate on-street parking demand. Furthermore, the most recent observations of actual on-street parking suggests that parking in Upland Road and neighbouring roads on Sunday mornings is at or close to capacity. This would be made worse by the loss of the primary school for parking in association with No 17, which is a possibility that must be taken into account.
24. The extent of parking on both sides of Upland Road, the number of pedestrians, many of them children, and the vehicle manoeuvres necessary to leave Upland Road present challenges for parking and highway safety that are already associated with the existing uses. Introducing a further use that would generate on-street demand and vehicle movements would clearly make the existing situation worse and would cause substantive and material harm beyond any that already exists. Given these findings, I do not consider that the appellant's Green Travel Plan or other demand management measures would provide sufficient certainty that this harm would be overcome, particularly given the permanent and potential long-term nature of the proposed use.

25. I acknowledge that the appellant may be frustrated by the fact that the lawful use at No 17 has occurred subsequent to his own intentions for use of the appeal building. Nonetheless, I have considered the proposal on its merits based on current circumstances and all the appeal submissions and site inspection, as I am required to do.
26. Accordingly, taking these findings as a whole and for all the above reasons, I conclude that the proposed development would, in conjunction with other nearby uses, have an unacceptably harmful effect on parking and highway safety. Consequently, it is contrary to the following development plan policies: G18 of the Council's Unitary Development Plan (UDP), concerning the management and improvement of the borough's road network; T17 also of the UDP, which includes the requirement for a demonstration of how the travel needs arising from development will be met in circumstances where there are concerns about the impact of on-street parking on traffic flow; and CS15 of the Council's Core Strategy, concerning the transport system, including the requirement to maintain and manage the existing highway network to ensure the free flow of traffic. These policies are consistent with the National Planning Policy Framework.

Other Matters

27. A significant number of representations were made by interested parties, both against and in support of the appeal proposal. I note in particular the substantive evidence, including a commissioned report, concerning noise and disturbance that local residents provided. However, given that my conclusion on the main issue results in the appeal not succeeding, I have not found it necessary to consider this or other matters further. Therefore, while I have had regard to all the representations made, they do not raise any matters in addition to the main issue that would lead me to reach a different overall conclusion.

Conclusion

28. For the reasons given above and having regard to all other matters raised, it is concluded that the appeal should be dismissed.

J Bell-Williamson

INSPECTOR